

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 08-2582-GW (AGR _x)	Date	December 17, 2008
Title	SONYA WILLIAMS v. VEOLIA TRANSPORTATION SERVICES, INC., et al.		

Present: The Honorable	Alicia G. Rosenberg, United States Magistrate Judge		
Marine Pogosyan	n/a	n/a	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Petitioner:		Attorneys Present for Respondent:	

Proceedings: In Chambers **RE PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORY, SET ONE, NO. 1 (Dkt. No. 35)**

On November 14, 2008, Plaintiffs filed a motion to compel further responses to interrogatory, set one, no. 1. (Dkt. Nos. 35-36.) On November 25, 2008, Plaintiffs filed a supplemental memorandum. (Dkt. No. 41.) The matter came on for hearing on December 16, 2008.

Interrogatory No. 1, Set One, asks defendant Veolia Transportation Services, Inc. ("Veolia") to identify by full name, last known address, telephone number and dates of employment, each and every person employed by Veolia¹ as a non-exempt employee within California from 4/18/04 to the present, who are not class members or a part of *Amalgamated Transit Union Local 1309 v. ATCNancom, Inc.* (Joint Stipulation (JS) at 2-3.)

Pursuant to the parties' stipulation, the court ordered certain discovery as to all non-exempt bus drivers who worked on the Antelope Valley Transit Authority Contract (AVTA) for Veolia from April 18, 2004 through the present under certain terms and conditions. (Dkt. No. 52.)

Plaintiffs' motion seeks further responses to Interrogatory No. 1 as to all other non-exempt employees of Veolia in the State of California from 4/18/04 until the present who are not class members or part of a class action entitled *Amalgamated Transit Union Local 1309 v. ATCNancom, Inc.* (JS at 2-3.)

Legal Standard

"Although in some cases a district court should allow discovery to aid the determination of whether a class action is maintainable, the plaintiff bears the burden of advancing a prima facie showing that the class action requirements of Fed. R. Civ. P. 23 are satisfied or that discovery is likely to produce

¹ At oral argument, the parties confirmed that the interrogatory at issue has been modified as set forth in Exhibit A at 4 to the Order filed December 4, 2008, Dkt. No. 52.)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 08-2582-GW (AGRx)	Date	December 17, 2008
Title	SONYA WILLIAMS v. VEOLIA TRANSPORTATION SERVICES, INC., et al.		

substantiation of the class allegations. Absent such a showing, a trial court's refusal to allow class discovery is not an abuse of discretion." *Mantolete v. Bolger*, 767 F.2d 1416, 1424 (9th Cir. 1985).

"[W]here the plaintiffs fail to make even a prima facie showing of Rule 23's prerequisites . . . the burden is on the plaintiff to demonstrate that discovery measures are likely to produce persuasive information substantiating the class action allegations." *Doninger v. Pacific Northwest Bell, Inc.*, 564 F.2d 1304, 1313 (9th Cir. 1977).

"In determining whether to grant discovery the court must consider its need, the time required, and the probability of discovery resolving any factual issue necessary for the determination." *Kamm v. California City Development Co.*, 509 F.2d 205, 210 (9th Cir. 1975).

Discovery

Plaintiffs did not submit any declarations, documents or other evidence in support of its motion to compel. The Consolidated Class Action & Private Attorneys General Act Complaint is not helpful in that it does not appear to disclose the factual basis for the alleged labor code violations other than repeating the statutory language, even as to the named Plaintiffs.

For this reason, the Court issued a minute order providing that Plaintiffs may file and serve any additional evidence they wish to have considered on or before 5:00 p.m. on December 12, 2008. Plaintiffs did not submit additional evidence on or before December 12, 2008. At oral argument, Plaintiffs submitted to the court a rough deposition transcript of Kathy Ann Snow, Regional Human Resources Director of Veolia, whose region includes California operations. The Court has reviewed the transcript.

For the reasons stated in the court's Order filed December 17, 2008 (Dkt. No. 56), Plaintiffs have not made a prima facie showing that the class action requirements of Fed. R. Civ. P. 23 are satisfied. In addition, Plaintiffs have not shown that discovery is likely to produce substantiation of the class allegations. For the reasons stated in the Order (Dkt. No. 56), based on the record before it at this stage of the proceedings, the court will limit discovery to the driver job classifications under the AVTA contract in California.

IT IS HEREBY ORDERED that, to the extent not already provided pursuant to the Order filed December 4, 2008 (Dkt. No. 52), Veolia shall provide further responses to Interrogatory No. 1 limited to non-exempt employees in driver job classifications under the AVTA contract in California during the time period beginning April 18, 2004 (or whenever Veolia took over the AVTA contract) to the date of this order under the same terms and conditions set forth in Docket Number 52.

